

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

|              |   |                               |
|--------------|---|-------------------------------|
| GPNE CORP.,  | ) | Case No.: 12-CV-02885-LHK     |
|              | ) |                               |
| Plaintiff,   | ) | ORDER DENYING APPLE'S MOTION  |
| v.           | ) | FOR JUDGMENT AS A MATTER OF   |
|              | ) | LAW AND DENYING IN PART       |
| APPLE, INC., | ) | GPNE'S MOTION FOR JUDGMENT AS |
|              | ) | A MATTER OF LAW               |
| Defendant.   | ) |                               |

At the close of Apple's affirmative and defensive cases, Apple and GPNE moved for judgment as a matter of law pursuant to Federal Rule of Civil Procedure 50(a). ECF Nos. 527, 528. Pursuant to the parties' stipulation, the parties did not file oppositions. ECF No. 514.

Rule 50 provides that the court may grant a motion for judgment as a matter of law against a non-moving party if "the court finds that a reasonable jury would not have a legally sufficient evidentiary basis to find for the party on" an issue.

After considering all of the evidence presented at trial, the parties' briefing, and the record in this case, the Court hereby DENIES Apple's motion for judgment as a matter of law.

On October 20, 2014, Apple's counsel agreed with the Court that a jury instruction on statutory bars should not be given to the jury. *See* Tr. at 1607:16-20. Similarly, Apple's counsel conceded that Apple's only invalidity witness did not testify as to anticipation. *See id.* at 1608:12-1609:13. Furthermore, while Apple's proposed final jury instructions filed on July 15, 2014 (ECF

No. 335) included an instruction on enablement, Apple's October 13, 2014 proposed final jury instructions (ECF No. 461) did not. Apple may file an opposition to GPNE's motion for judgment as a matter of law as to anticipation, enablement, written description, and statutory bars by 8:00 A.M. on October 21, 2014, if Apple so chooses. Any opposition shall not exceed a total of 3 pages.

Other than the issues for the which the Court seeks additional briefing, the Court hereby DENIES GPNE's motion for judgment as a matter of law.

**IT IS SO ORDERED.**

Dated: October 20, 2014



LUCY H. KOH  
United States District Judge